

APPEAL NO. 040598
FILED MAY 6, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 20, 2004, with the record closing on January 31, 2004. The hearing officer determined that the appellant/cross-respondent's (claimant) compensable injury of _____, does not include or extend to include spondylosis at L5-S1, disc dessication at L5-S1, posterior disc bulging at L5-S1, degenerative disc disease in the lumbar spine, posterior central disc protrusions and disc dessication at T9-10 and T10-11, degenerative disc disease in the thoracic spine, and cervicobrachial syndrome. The hearing officer further determined that the claimant is entitled to change treating doctors to Dr. T pursuant to Section 408.022. The claimant appealed the extent-of-injury determination on sufficiency of the evidence grounds. The respondent/cross-appellant (self-insured) responded, urging affirmance. The self-insured appealed the hearing officer's determination regarding the claimant's entitlement to change treating doctors on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not include or extend to include the above-listed conditions. The extent-of-injury issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was not persuaded that the claimant sustained her burden of proving that the compensable injury included the conditions at issue. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer also did not err in determining that the claimant was entitled to change treating doctors. Section 408.022(c) provides a list of criteria for approving a change of treating doctors. In this instance, the hearing officer found that a conflict existed between the claimant and her former treating doctor to the extent that the doctor-patient relationship was jeopardized or impaired. Based on this finding, the hearing officer concluded that the claimant is entitled to change treating doctors to Dr. T pursuant to Section 408.022. The hearing officer's determination that the claimant's request to change treating doctors was made for a proper reason is supported by

sufficient evidence and is not so contrary to the great weight of the evidence as to compel its reversal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Daniel R. Barry
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge